Problem-Solving Prosecutors

Community Prosecution in Portland, Oregon
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Introduction

This document is part of a series profiling five community prosecution programs that have emerged as national models. These programs — in Austin, Denver, Indianapolis, Portland and Washington D.C. — offer unique perspectives on the issues and practice of community prosecution today. This profile focuses on community prosecution in Portland and, in particular, some of its successful efforts to solve neighborhood problems. The other profiles focus on developing new community justice tools (Austin), engaging the community (Denver), building partnerships (Indianapolis), and implementing an office-wide community prosecution program (Washington D.C.).

Origins

Like most prosecutors, Portland District Attorney Michael D. Schrunk came into office ready to do battle with the county’s most heinous criminals. “I always thought if I took care of murders, rapes and robberies, I’d be a hero,” Schrunk says. And then Schrunk learned that his constituents wanted him to pay as much attention to quality-of-life problems as he did to the serious crimes that make the papers. “I got out into the community and found out they wanted me to take care of the small things: speeding, someone urinating in a doorway, a one-rock [cocaine] sale on a corner.”

A community policing initiative was already working on these quality-of-life crimes, but Schrunk believed his office also had a role to play. As Wayne Pearson, an assistant D.A., explains it, the police and the community were like a two-legged stool — they were trying to address local livability and safety issues, but were hampered without the third “leg” of a prosecutor’s legal expertise.

“The police and community would hammer out good ideas and then they’d say, ‘But can we do that? Is that legal?’ And many great, slam-dunk strategies ended up on the floor because the police involved weren’t sure if it was legal and they’d never heard of anyone doing it before so they just said ‘No’ to be safe. It became apparent that community policing could be exponentially greater if we had a community prosecutor in place to provide on-going legal strategic advice to bring together both practical and legal solutions to these street-behavior problems,” says Pearson, who led Portland’s foray into community prosecution as Multnomah County’s first neighborhood D.A.

Getting Started

Schrunk launched the community prosecution program in downtown Portland’s Lloyd District, where business leaders were worried that quality-of-life crimes were
detracting from efforts to convert the area, which is about 10 by 15 blocks, into a major commercial center. The business group actually paid Pearson’s salary, a fact that demonstrated its strong support for the project but also created a stir when a local newspaper called him a “Hired Gun” in a front-page headline. Critics quoted in the article suggested that this meant the D.A.’s office was for sale, and that the rich could “buy” the prosecutor’s services.

But instead of a backlash against the newly-launched Neighborhood D.A. Program, county residents rallied behind it. “The result of the article was that Mike [Schrunk] got calls from a lot of different people saying, ‘We want one, too.’ It never had a dampening effect on the program. It actually served as a catalyst to make people aware of it,” said Judy Phelan, Schrunk’s staff assistant. Since that moment of crisis in 1990, Schrunk has expanded the program to cover the entire county with seven neighborhood D.A.s paid for with mostly public money. (The $772,331 annual budget is funded through an array of sources, including the county, a federal block grant, and the local public transportation agency. Other government sources, such as the police and the cities of Portland and Gresham, provide office space and legal assistants; and the downtown business group continues to provide office space and the salary of a legal assistant.)

Without a how-to manual to guide him, Pearson invented the job as he went along. “Mike [Schrunk] had said to [Wayne Pearson], ‘I want you to go out there, talk to people, find out what their problems are and see what you can do about it.’ It was a very loose description,” Phelan recalls.

Pearson met frequently with stakeholders — the business leaders, store owners, residents and people who worked in the area — who told him again and again that they were most concerned and bothered by the low-level offenses that had given the district a seedy reputation: public drinking, prostitution, vandalism, public urination, littering and car thefts.

Pearson’s first initiative in the Lloyd District focused on illegal camping in Sullivan’s Gulch. The business community considered the large number of transients who called the gulch home a public nuisance and blamed them for a significant number of petty crimes in the area. Traditional enforcement — occasional arrests of outstanding troublemakers — wasn’t working, and Pearson and the police agreed that it wasn’t realistic to commit police resources to continually arrest those who violated the city’s no-camping ordinance: since jail space was at a premium, offenders would likely be back on the street within hours of their arrest, and sanctions, if any, wouldn’t be imposed for months or even years. “As a prosecutor, I knew that the traditional tools weren’t going to work,” Pearson explains.

**Meeting with Stakeholders**

Pearson pulled together citizens and police to tackle the problem. But before devising a strategy, he took stock of his resources. “For any strategy, in my estimation, to outlast a problem, you can’t keep throwing money at it and expect the strategy to still be in place six months from now or two years from now. You take stock of the
human resources that are already there. If you have one district officer and that’s all you’ve got, you don’t build a model on 15 officers working overtime; how long will that last? A week? A month?” Pearson says. In this instance, the resources at hand included 12 committed volunteers from the business community, plus general police coverage of the area. There was also an annual, city-financed cleanup of the gulch. The city spent up to $40,000 every spring to clean up the gulch, removing the garbage and debris that the transients had left behind over the year.

In years past, the transients returned immediately following the cleanup. This time, however, Pearson had brightly colored “No Camping” signs posted in the gulch. Listed on the back of the signs were shelter locations. The 12 community members were each assigned a particular section of the gulch to drive by two or three times a week. When they spotted illegal campsites, they notified Pearson who contacted the district patrol officer. The officer went to the campsites and asked the people to leave. Almost always, the transients were cooperative. “The whole issue was to tell people they can’t be there, to send a strong, consistent, sensitive message: ‘You can’t be there.’ It sounds too simple, I know,” Pearson says.

Pearson drew in other city agencies to clean out brush, making it harder for campers to hide, and also to install bars under highway viaducts — another location where the transients had previously concealed themselves. Eventually the citizens on patrol began on their own to ask campers to leave — although they asked Pearson first if it was legal for them to do so. Pearson explained that it was well within the law for anyone to tell transients that they were violating a city ordinance by squatting on city property. Emboldened with their knowledge of the law, some of the volunteers even gave the transients garbage bags and asked them to clean up after themselves, Pearson recalls.

The volunteers’ willingness to do the work saved police resources, reflecting what Pearson calls the community’s “barn-raising mentality” — a do-it-yourself attitude that Pearson feels is essential for effective neighborhood problem-solving. In short order, the problem of illegal camping in Sullivan’s Gulch was solved and area stakeholders saw a decline in quality-of-life problems on their streets. “The City of Portland has never had to go down there and spend another nickel on a cleanup,” Pearson proudly points out. Citizens have continued the patrols for the last nine years although the number of volunteers has dropped to about four. Still, “there’s almost never anyone in the gulch anymore,” Pearson says.

Pearson was involved in a number of successful initiatives that first year, which led Schrunk to set up the county’s second neighborhood prosecutor in a residential neighborhood. Today, seven neighborhood D.A.s cover the entire county, which has 642,000 residents, 510,000 of whom live in Portland. The neighborhood D.A.s have been freed from the traditional responsibilities of prosecuting cases to give their full attention to local problem-solving. Their work varies from district to district as each neighborhood D.A. responds to local concerns. Because the work is so varied, it’s hard to describe succinctly. “We’re still trying to get our arms around it and figure
out what it is,” Phelan says. “I never liked the term community prosecution because [our] neighborhood D.A.s don’t prosecute. … It can be putting on an orange cover-all and painting over graffiti with cops and neighborhood people; it can be going to a meeting; it can be coming up with legal strategies to solve a long-standing problem.”

Schrunk says being a neighborhood D.A. “means getting in the community and trying to solve problems at the lowest possible level and when appropriate, making lightning strike — an indictment or filing a charge. They’re looking for long-term systemic infrastructure solutions to problems that are causes of or breeding grounds for criminal conduct.”

Barbara Boland, who has studied community prosecution in Portland and elsewhere, notes that neighborhood prosecutors contribute legal strategies and their hands-on knowledge of the law to the process of problem-solving. In addition, neighborhood D.A.s bring to bear the weight and influence of the prosecutor’s office. Because of the respect afforded prosecutors in general, Pearson and his staff say they rarely have a problem getting their calls returned or difficulty arranging meetings involving the community and criminal justice or government agencies. Sometimes, in fact, the act of convening a meeting is the most important contribution a neighborhood D.A. makes. Such was the case when Pearson brought together stakeholders to address drug-dealing in a quarter-acre downtown park. A merchant in the community suggested turning sprinklers on at irregular intervals during the day. The plan was carried out and the drug-dealers disappeared virtually overnight. “In the end, some of the best solutions come from citizens,” Pearson said. “No police resources, no prosecutions, the community is ecstatic and all you had to do was water the lawn.”

Problem-solving isn’t always this simple, however. To give a more complete picture of the Multnomah County’s Neighborhood D.A. Program and its problem-solving successes, here are two examples:

**Drug-Free Zone**

**Problem** Traditional enforcement wasn’t keeping drug dealers off the streets in certain Portland neighborhoods. Because jails were overcrowded, those arrested for drug crimes were often released on their own recognizance and within hours were back at the same location, peddling their wares. In response, neighborhood associations called upon judges to ban dealers from certain areas as a condition of release. With input from Pearson, it was determined that judges had the power to issue such bans, but the police didn’t have the power to enforce them without returning to court and obtaining an arrest warrant — a complicated and lengthy process that made the proposal unworkable.

**Solution** Pearson, working with the city attorney, crafted an ordinance creating a drug-free zone, the first of its kind in the country. If someone is arrested for a drug-offense within the zone, the arresting officer can issue a 90-day notice of exclusion from the zone. If the person enters the zone within 90 days, he or she can be arrested for criminal trespass. Its creators strived to make the ordinance “very due-process
oriented,” Pearson said, which has allowed it to withstand legal challenges. Offenders can appeal the exclusion and variances are allowed for defendants who work, live or need social services in the zone. This solution eliminates the judiciary and the cumbersome and time-consuming need to obtain a contempt warrant.

**Result**  The drug market was eradicated in one area of town and drug arrests significantly reduced in two residential zones. In one of the residential zones, drug arrests dropped 48 percent the first year and 51 percent the second year. In the same period citywide, drug arrests increased by 20 percent the first year and 21 percent the next. Jim Hayden, a neighborhood prosecutor who has drug-free zones in his district, says there hasn’t been any sign of displacement. “Flat out we haven’t found it,” he said. He conceded that “certain little areas of drug activity have popped up on the periphery” but said the activity was so minor compared to the initial problem that it was “not statistically significant.”

**Motel Agreement**

**Problem** A motel strip in North Portland attracted regular prostitution and drug activity, causing residential neighbors and other businesses to complain.

**Solution** Hayden, the neighborhood D.A., developed an agreement that motel owners were asked to sign. According to the agreement, motel owners would require people registering for rooms to provide photo identification for themselves and all people coming to their rooms. If guests violated the rule, the agreement to rent the room was voided. Police were given access to registration records, and if they observed more people entering a room than were registered, they had the authority to enter and investigate. Motel owners were invited to attend several meetings where they helped shape the agreement. The owners did not want to require long-standing customers to go through the new registration process, nor did they want to force large groups of people to get out of their car to register. “We incorporated almost all the suggestions made by the motel owners. We worked hand in hand with them,” Hayden says. Most motels cooperated “because they were running a legitimate business.” But a few declined to sign the agreement. When one particularly troublesome motel continued to draw complaints from the community and other motel owners, Hayden and the police targeted it with a sting. Undercover officers posed as prostitutes, engaging potential johns on hotel property; the motel owners were charged with promoting prostitution, and as part of a plea agreement, they agreed to sell the motel. The D.A.’s office received $35,000 in forfeiture from the sale and had veto power over the selection of new owners. A chronic nuisance ordinance was used to close down two other motels.

**Result** Although there are no statistics to measure the impact of the initiative, Hayden says prostitution activity has virtually disappeared from the area and neighborhood complaints are dramatically down. “Interstate Avenue is a much changed place,” Hayden says. Even the motel owners are pleased with the transformation,
Hayden says. “They’ll tell you the agreement is a positive thing, drawing more customers and improving the reputation of the motels.”

Schrunks is proud of the Neighborhood D.A. Program, although the road hasn’t been easy. Tight funding means most of the D.A.s work without paralegals or other support staff. Also, the county has had difficulty evaluating the program’s overall achievements. “There’s a whole lot of it that’s hard to measure,” Schrunk concedes. “How do you measure whether people are using your public parks or if people are comfortable shopping in a particular area? How do you measure crime avoidance, what doesn’t happen? When things are going good, how do you continue funding for a project like that? Those are difficult things.”

For Schrunk, the program’s shining achievement has been its ability to turn county residents into “full-service citizens” and “get them to work with different partners in the criminal justice system to make them part of the solution rather than part of the problem.” Schrunk considers the Neighborhood D.A. program a natural outgrowth of community policing. The next step, he says, is the creation of more community courts, where judges will pay more attention to the low-level crime that communities care about. Portland already has, in fact, one community court, and plans to open two more in the near future.

“I’d like to see problem-solving … involving the commercial and residential citizens of a neighborhood; I’d push for more court sessions held in community centers, dealing on the civil side with neighborhood and landlord-tenant disputes, and on the criminal side with restitution, restorative justice, and having offenders pay back the community.”

The Future

Tips From the Field

The following are some pointers from Portland for people planning or running community prosecution programs:

**Capitalize on neighborhood strengths.** Portland already had in place a strong network of neighborhood associations, which gave neighborhood D.A.s a ready-made group of community leaders and residents to plug into.

**Plan around pre-existing resources.** “If you have one district officer and that’s all you’ve got, you don’t build a model on 15 officers working overtime; how long will that last? A week? A month?” Pearson says.

**Rotate neighborhood D.A.s.** Ideally, local prosecutors should move back into the main office after an average of three years in the field. This helps avoid burnout and fosters greater appreciation for the work of the neighborhood D.A. among the rest of the staff. Schrunk also feels it gives career prosecutors a broader perspective on their role in the community as well as personal links and relationships between a broader number of staff and the community.
When rotating staff members, warn the community in advance. Stakeholders become attached to “their” D.A. and have been known to protest loudly when they’ve learned at the last moment about a change in personnel.

Be creative with funding. Some neighborhood D.A.s use donated office space and some have paralegals paid for by other government agencies.

Bring neighborhood D.A.s together. Weekly meetings foster brainstorming, the sharing of ideas and moral support.

Give neighborhood D.A.s the freedom to be creative. “Every day is different,” Hayden says. “The D.A. doesn’t tell us ‘This is how you must structure your day.’ He’s been amazingly hands-off.”

Explain to stakeholders the strategy in advance. In the case of the drug-free zones, Pearson spent a year touching base with social service agencies, community members and government officials so that they’d understand the safeguards and due process components, and not fight the effort based on a lack of understanding of how it works.
Notes
Center for Court Innovation
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